

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PRINCE L. SPELLMAN,

Defendant.

8:21-CR-136

**ORDER ON REQUEST TO PROCEED
PRO SE**

This matter is before the Court on Defendant's request to waive his right to counsel and represent himself at his criminal trial presently scheduled for September 27, 2022. *See generally* [Filing 86](#); Filing 89. At a hearing held on September 12, 2022, the Court conducted a colloquy with Defendant to determine if he knowingly and intelligently waived his right to counsel and wished to proceed *pro se*. Filing 89. At the hearing, after determining that the Defendant met the requirements for representation by the Federal Public Defender's (FPD's) office, the Court instructed Yvonne Sosa of the FPD's Office to speak with Defendant about Ms. Sosa potentially representing Defendant at trial. Filing 89. The Court also discussed with Defendant the potential of Ms. Sosa serving as standby counsel for Defendant. The Court requested that Ms. Sosa inform the Court should Defendant still wish to proceed *pro se* after speaking with her. Filing 89.

On September 13, 2022, Ms. Sosa relayed Defendant's intention to represent himself at trial, with Defendant approving of Ms. Sosa serving as standby counsel. At the hearing, the Court explained the role of standby counsel. The Court explained that as standby counsel, Ms. Sosa will not be able to represent Defendant at the trial or make any arguments or statements to the Court or jury on his behalf. The Court also noted, among other things, that it will be the obligation of

Defendant, not Ms. Sosa, to make any filings on his own behalf and to secure any witnesses and any other evidence for trial.

Based upon Defendant's answers to the Court's questions at the September 12, 2022, hearing, and the Court's warnings that Defendant is taking a serious risk and that a seasoned attorney would represent him far better than he could represent himself, the Court finds that Defendant has knowingly, intelligently, and voluntarily waived his right to counsel and that he has invoked his right to self-representation pursuant to *Faretta v. California*, 422 U.S. 806 (1975). See *Fiorito v. United States*, 821 F.3d 999, 1003 (8th Cir. 2016) (holding that the waiver of the right to counsel must be "knowing and intelligent"); *United States v. Crawford*, 487 F.3d 1101, 1106 (8th Cir. 2007) (holding that a waiver of the right to counsel is knowing and intelligent if "the district court adequately warns the defendant about the dangers and disadvantages of proceeding pro se" (quoting *United States v. Stewart*, 20 F.3d 911, 917 (8th Cir. 1994))).

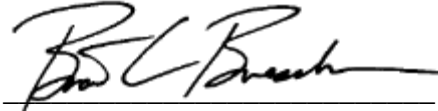
Therefore, Defendant shall represent himself at his trial presently scheduled for September 27, 2022. The Court instructs Defendant that he must abide by all deadlines and requirements outlined in the Court's Final Trial Order issued on September 9, 2022, and handed to him at the September 12, 2022, hearing. See [Filing 87](#). The Court also directs Defendant to abide by the Court's local rules, the Federal Rules of Evidence, the Federal Rules of Criminal Procedure, and all other applicable rules and substantive law. Defendant must also follow the Court's orders before and during trial and is admonished that the Court will not tolerate serious and obstructive misconduct by Defendant before or at trial. See *United States v. Luscombe*, 950 F.3d 1021, 1029 (8th Cir. 2020) (holding that a judge may revoke self-representation for serious obstructionist misconduct). In accordance with the September 12, 2022, hearing, the Court appoints Yvonne Sosa of the FPD's Office as standby counsel for Defendant. Accordingly,

IT IS ORDERED:

1. The Court finds Defendant knowingly and intelligently waives his right to counsel;
2. Defendant shall proceed *pro se* in his criminal trial scheduled for September 27, 2022;
and
3. Yvonne Sosa of the FPD's Office is appointed as standby counsel for Defendant.

Dated this 13th day of September, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'B. C. Buescher', written over a horizontal line.

Brian C. Buescher
United States District Judge